# HARVARD LAW REVIEW.

Published monthly, during the Academic Year, by Harvard Law Students.

SUBSCRIPTION PRICE, $2.50 PER ANNUM. . . . . 35 CENTS PER NUMBER



THE LAW SCHOOL. — The following table shows the registration in the school on November fifteenth for eleven successive years: —

| | 1889–90 | 1890–91 | 1891–92 | 1892–93 | 1893–94 | 1894–95 |
|---|---|---|---|---|---|---|
| Res. Grad. . . . | — | — | — | — | — | — |
| Third year . . . | 50 | 44 | 48 | 69 | 66 | 82 |
| Second year . . | 59 | 73 | 112 | 119 | 122 | 135 |
| First year . . . | 86 | 101 | 142 | 135 | 140 | 172 |
| Specials . . . . | 59 | 61 | 61 | 71 | 23 | 13 |
| Total . . . . | 254 | 279 | 363 | 394 | 351 | 402 |

| | 1895–96 | 1896–97 | 1897–98 | 1898–99 | 1899–1900 |
|---|---|---|---|---|---|
| Res. Grad. . . . | — | — | 1 | 1 | — |
| Third year . . . | 96 | 93 | 130 | 102 | 134 |
| Second year . . | 138 | 179 | 157 | 169 | 193 |
| First year . . . | 224 | 169 | 216 | 218 | 232 |
| Specials . . . . | 9 | 31 | 41 | 58 | 51 |
| Total . . . . | 467 | 472 | 545 | 548 | 610 |

The increase in the total registration is very marked. The first year class is larger than in any previous year, and the same is true of the second and the third year classes. Of the third year class, 21 per cent did not return, as against 32, 28, 36, 30, 34 and 44 per cent respectively, in six preceding years. The second year men failing to return make only 12 per cent of the whole class, as against 25, 7, 23, 28, 24 and 27 per cent in former years.

The number of men who did not take their examinations last year was 10 per cent in the first year class, and 7 per cent in the second year class, as compared with 16 and 6 per cent, and 9 and 3 per cent respectively, for the two previous years.

The following are the usual tables showing the sources from which ten successive classes have been drawn, both as to previous college training and as to the geographical districts from which they have come: —

HARVARD GRADUATES.

| Class of | From Massachusetts. | New England outside of Massachusetts. | Outside of New England. | Total. |
|---|---|---|---|---|
| 1893 | 34 | 1 | 19 | 54 |
| 1894 | 30 | 2 | 17 | 49 |
| 1895 | 32 | 4 | 13 | 49 |
| 1896 | 23 | 7 | 17 | 47 |
| 1897 | 27 | 2 | 15 | 44 |
| 1898 | 42 | 1 | 25 | 68 |
| 1899 | 45 | 6 | 19 | 70 |
| 1900 | 50 | 11 | 30 | 91 |
| 1901 | 45 | 3 | 28 | 76 |
| 1902 | 59 | 2 | 28 | 89 |

GRADUATES OF OTHER COLLEGES.

| Class of | From Massachusetts. | New England outside of Massachusetts. | Outside of New England. | Total. |
|---|---|---|---|---|
| 1893 | 5 | 9 | 21 | 35 |
| 1894 | 7 | 20 | 38 | 65 |
| 1895 | 8 | 14 | 30 | 52 |
| 1896 | 14 | 11 | 45 | 70 |
| 1897 | 9 | 12 | 56 | 77 |
| 1898 | 19 | 23 | 62 | 104 |
| 1899 | 21 | 12 | 45 | 78 |
| 1900 | 30 | 19 | 60 | 109 |
| 1901 | 27 | 22 | 59 | 107 |
| 1902 | 22 | 29 | 61 | 112 |

HOLDING NO DEGREE.

| Class of | From Massachusetts. | New England outside of Massachusetts. | Outside of New England. | Total. | Total of Class. |
|---|---|---|---|---|---|
| 1893 | 4 | 1 | 7 | 12 | 101 |
| 1894 | 20 | 1 | 10 | 31 | 142 |
| 1895 | 16 | 3 | 14 | 33 | 135 |
| 1896 | 10 | 4 | 9 | 23 | 140 |
| 1897 | 26 | 7 | 16 | 49 | 170 |
| 1898 | 25 | 2 | 25 | 52 | 224 |
| 1899 | 11 | 2 | 8 | 21 | 169 |
| 1900 | 11 | 2 | 3 | 16 | 216 |
| 1901 | 25 | — | 9 | 34 | 218 |
| 1902 | 18 | 4 | 9 | 31 | 232 |

Thirty-one of the men in the first year class, who hold no degree, are Harvard seniors on leave of absence. Next year, however, no persons qualified to enter the Senior Class of Harvard will be admitted to the school as such. In the future, therefore, there will be practically no one in the first year class holding no degree.

The following thirty-eight colleges have conferred their first degrees on members of the entering class, the figures indicating the number of men from each college, when there are more than one: Yale (22), Dartmouth (13), Brown (10), Bowdoin (8), Amherst (4), Johns Hopkins (4), Princeton (4), Williams (4), University of Wisconsin (4), University of Chicago (3), Iowa College (3), Boston College (2), Franklin and Marshall (2), Hobart (2), University of Illinois (2), University of Michigan (2), Oberlin (2), Beloit, Colby, Columbia, Cornell, University of Georgia,

Georgetown, Holy Cross, Indiana University, Lawrence, Leland Stanford, Massachusetts Institute of Technology, University of Missouri, University of Mount Allison, University of New Brunswick, New York University, Pennsylvania College, Tufts, Tulane University of Louisiana, Washington and Jefferson, Wesleyan University, University of Wooster.

---

INCRIMINATING QUESTIONS UNDER THE BANKRUPTCY ACT. — The recent case of *In re Rosser*, 96 Fed. Rep. 305 (Dist. Ct., Mo.) has picked a new flaw in the National Bankruptcy Act. *In re Scott*, 1 Am. Bank. Rep. 50 *acc.* An insolvent refused to answer certain questions before a referee on the ground that the answers might tend to incriminate him, relying on the Fifth Amendment to the Constitution. It was held that he might refuse to answer — § 7 of the Bankruptcy Act, that "no testimony given by him shall be offered in evidence against him in any criminal proceeding," notwithstanding. In the case of *Counselman* v. *Hitchcock*, 142 U. S. 547, it was held that one under investigation before a grand jury was protected from incriminating questions in spite of a statute (Revised Statues, § 860) which provided that no evidence given in a judicial proceeding could "be given in evidence or in any way used against him" in any subsequent proceeding. In a later case, *Brown* v. *Walker*, 161 U. S. 591, a statute more broadly framed against any use whatever of so-called incriminating evidence in or for later proceedings was held to do away with the possibility of incrimination, and so the application of the constitutional privilege, and a stubborn witness was refused a writ of *habeas corpus*. In spite of these decisions the clause which was inserted in the new Bankruptcy Act is weaker than the proviso which was discussed in *Counselman* v. *Hitchcock*, — it seems simply a bit of carelessness. The only operation it can have is to induce a bankrupt to make disclosures — it was intended to force him.

In England it has been held, since Lord Eldon in *Re Cossens*, 1 Buck. 531, that the common law privilege against self-incrimination is without application in Bankruptcy proceedings. *Re Smith*, 2 Deac. & Chit. 230; *Ex parte Reynolds*, 20 Ch. D. 294; Lowell, Bankruptcy, § 158. Since bankruptcy proceedings are an exception to the common law privilege against self-incrimination, might not the constitutional privilege be construed to have the same exception — especially in view of the fact that bankruptcy legislation is, in one aspect, favorable to the bankrupt? The English cases that established the exception do not seem, however, to antedate 1820, *Re Cossens*, *supra*, and the argument has never been raised in the United States.

---

THE VALIDITY OF FOREIGN CONTRACTS. — The law applied by the courts of England in the enforcement of foreign contracts, ever since the decision of *Jacobs* v. *Credit Lyonnais*, 12 Q. B. D. 589, has remained uncertain. So far as any definite rule is laid down, they determine the validity of the contract by the law of that jurisdiction which the parties intended should govern. Since such intent is rarely expressed, this rule without further elaboration is unserviceable. Therefore, after Lord Justice Bowen, in the case above cited, declared it unwise to lay down specific rules in a matter of such growing commercial importance, each succeeding case has been obliged to seek out its own decisive reason.